

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

DINA CAPITANI,)	
)	
Plaintiff/Counter-Defendant.)	
)	
v.)	Case No. 3:19-cv-00120
)	
WORLD OF MINIATURE BEARS. INC.,)	JURY DEMAND
individually, and d/b/a MINIBEARGEMS,)	
and MINI BEAR GEMS, and)	
MINIBEARGEMS & GIFTS, INC.,)	JUDGE CRENSHAW
individually, and d/b/a MINIBEARGEMS and)	MAGISTRATE JUDGE FRENSELY
MINI BEAR GEMS,)	
)	
Defendants/Counter-Plaintiffs.)	

ANSWER TO COUNTER-CLAIM FOR DECLARATORY RELIEF

Plaintiff/Counter-Defendant Dina Capitani (“Ms. Capitani”) answers Defendants/Counter-Plaintiffs’ Counter-Claim for Declaratory Relief as follows:

1. Ms. Capitani admits the allegations contained in Paragraph 1 of the Counter-Claim.
2. Ms. Capitani admits the allegations contained in Paragraph 2 of the Counter-Claim.
3. Ms. Capitani admits the allegations contained in Paragraph 3 of the Counter-Claim.
4. Ms. Capitani admits the allegations contained in Paragraph 4 of the Counter-Claim.
5. Ms. Capitani admits the allegations contained in Paragraph 5 of the Counter-Claim.
6. Ms. Capitani admits that on July 28, 2011, she entered into a Licensing Agreement with Geoffrey Roebuck and Cathy Roebuck (the “Roebucks”), wherein Ms. Capitani agreed to provided them copies of Ms. Capitani’s original illustrations from her registered Doggie Doodles by Dina Volume II (“Subject Works”) for the Roebucks to use on their products for a term of three

years from August 1, 2011, until August 1, 2014. Any and all allegations within Paragraph 6 of the Counter-Claim that are inconsistent with the foregoing are denied.

7. Ms. Capitani admits the allegations contained in Paragraph 7 of the Counter-Claim.

8. Ms. Capitani admits the allegations contained in Paragraph 8 of the Counter-Claim.

9. Ms. Capitani is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 9 of the Counter-Claim.

10. Ms. Capitani is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 10 of the Counter-Claim.

11. Paragraph 11 of the Counter-Claim states a legal conclusion rather than a factual allegation to which no response is required.

12. Ms. Capitani denies that the Order she obtained in her favor against the Roebucks is overly broad. The remaining allegations of Paragraph 12 of the Counter-Claim state legal conclusions rather than factual averments, to which no response is required.

13. Ms. Capitani denies the allegations contained in Paragraph 13 of the Counter-Claim.

14. Ms. Capitani denies that Counter-Plaintiffs are entitled to relief requested in their Prayer for Relief.

15. All allegations not heretofore specifically admitted or denied, are hereby expressly denied.

AFFIRMATIVE DEFENSES

1. The Counter-Claim fails to state a claim upon which relief can be granted and should, therefore, be dismissed.

2. To the extent determined to be applicable in the case, Ms. Capitani relies upon all applicable statutes of limitations.

3. Ms. Capitani reserves the right to amend her Answer to assert additional defenses pending further investigation and discovery in this case.

WHEREFORE, Plaintiff/Counter-Defendant Dina Capitani respectfully prays that all claims asserted in the Counter-Claim be dismissed on the merits; that she be awarded all discretionary costs that are properly recoverable from Defendants/Counter-Plaintiffs; that all costs assessed by the Court be taxed to the Defendants/Counter-Plaintiffs; and that Ms. Capitani be awarded any and all other and additional relief to which she is justly and lawfully entitled. In the alternative, Ms. Capitani demands a jury of twelve (12) persons to try this action.

Respectfully submitted by:

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Attorneys for Plaintiff Dina Capitani

CERTIFICATE OF SERVICE

I hereby certify that on October 18, 2019, a true and exact copy of the foregoing has been served on the following via the court's efilings system:

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